

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Book People, Inc., VBK, Inc.,
American Booksellers Association,
Association of American Publishers,
Authors Guild, Inc., Comic Book
Legal Defense Fund,
Plaintiffs,**

v.

**Martha Wong, Keven Ellis, Mike
Morath,
*Defendants.***

**Civil No.
AU: 23-CV-00858-ADA**

NOTICE OF DEFENDANT'S PROPOSED SCHEDULING ORDER

On May 8, 2024, the Court conducted a conference in the above-entitled matter and all parties appeared through counsel. Following the hearing, Defendant, Mike Morath (“Defendant” or “Commissioner Morath”), attempted repeatedly but unsuccessfully to confer with Plaintiffs regarding a Joint Proposed Scheduling Order. Accordingly, Commissioner Morath respectfully offers Notice of Defendant’s Proposed Scheduling Order, as conveyed to Plaintiffs on June 11, 2024:

Date	Event
August 2, 2024	Discovery commences on all issues.
August 16, 2024	All motions to amend pleadings or to add parties shall be filed on or before this date.
December 13, 2024	Fact Discovery Deadline. Fact discovery must be completed by this date. Any fact discovery requests must be propounded so that the responses are due by this date.
December 20, 2024	The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before this date. All offers of settlement are to be private,

	not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.
June 26, 2024	Each party shall complete and file the attached "Notice Concerning Reference to United States Magistrate Judge"
October 18, 2024	Parties with burden of proof to designate Expert Witnesses and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).
January 17, 2025	Each opposing party shall respond, in writing, to the written offer of settlement made by the parties asserting claims for relief by this date. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.
November 15, 2024	Parties shall designate Rebuttal Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).
December 13, 2024	Expert Discovery Deadline. Expert discovery must be completed by this date.
	Any objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than 14 days of receipt of the written report of the expert's proposed testimony or not later than 14 days of the expert's deposition, if a deposition is taken, whichever is later. The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702.
February 14, 2025	All dispositive motions shall be filed and served on all other parties on or before this date and shall be limited to 25 pages. Responses shall be filed and served on all other parties not later than 14 days after the service of the

	motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 7 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.
May 9, 2025	By this date the parties shall meet and confer to determine pre-trial deadlines, including, <i>inter alia</i> , exchange of exhibit lists, designations of and objections to deposition testimony, and exchange of demonstratives.
May 16, 2025	By this date the parties shall exchange a proposed jury charge and questions for the jury. By this date the parties will also exchange draft Motions in Limine to determine which may be agreed.
May 23, 2025	By this date the parties shall exchange any objections to the proposed jury charge, with supporting explanation and citation of controlling law. By this date the parties shall also submit to the Court their Motions in Limine.
May 30, 2025	By this date the parties will submit to the Court their Joint Pre-Trial Order, including the identification of issues to be tried, identification of witnesses, trial schedule provisions, and all other pertinent information. By this date the parties will also submit to the Court their oppositions to Motions in Limine.
	Final Pre-Trial Conference. The parties shall provide to the Court an agreed jury charge with supported objections of each party, and proposed questions for the jury, at the final Pre-Trial Conference.
	The Court will attempt to schedule Jury Selection on a day during the week of _____. Otherwise, Jury Selection shall begin at 9:00 a.m. on _____.
June 2025	Jury Trial Commences

Respectfully submitted.

KEN PAXTON
Attorney General

BRENT WEBSTER
First Assistant Attorney General

RALPH MOLINA
Deputy Attorney General for Legal Strategy

RYAN WALTERS
Chief, Special Litigation Division

/s/Amy Pletscher

AMY PLETSCHER
Assistant Attorney General
Texas State Bar No. 24113663
amy.pletscher@oag.texas.gov

ZACHARY BERG
Special Counsel
Texas State Bar No. 24107706
zachary.berg@oag.texas.gov

MUNERA AL-FUHAID
Special Counsel
Texas State Bar No. 24094501
munera.al-fuhaid@oag.texas.gov

Office of the Attorney General
Special Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 936-0927
Facsimile: (512) 320-0667

**ATTORNEYS FOR COMMISSIONER
MIKE MORATH**

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2024, a true and correct copy of the foregoing document was served on all counsels of record.

/s/Amy Pletscher

AMY PLETSCHER

Assistant Attorney General